

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: LITTLE SIOUX CORN PROCESSORS, L.P.	DOCKET NO. P-847
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PROPOSED DECISION AND ORDER GRANTING PERMIT

(Issued August 29, 2002)

APPEARANCES:

MR. WILLIAM E. HANIGAN and MS. NANCY BOYD, Attorneys at Law, Brown, Winick, Graves, Gross, Baskerville, & Schoenebaum, P.L.C., 666 Grand Avenue, Suite 2000, Des Moines, Iowa 50309-2510, appearing on behalf of Little Sioux Corn Processors, L.P.

MR. CRAIG GRAZIANO, Attorney at Law, 310 Maple Street, Des Moines, Iowa 50319, appearing on behalf of the Iowa Department of Justice, Office of Consumer Advocate.

STATEMENT OF THE CASE

On May 7, 2002, Little Sioux Corn Processors, L.P. (Little Sioux), filed a petition and exhibits for a permit to construct, operate, and maintain a natural gas pipeline approximately 0.85 miles long in Cherokee County, Iowa. The proposed six-inch diameter steel pipeline will transport natural gas to a corn processing plant east of Marcus, Iowa, that will convert corn into ethanol. (petition for permit; testimony of Mr. Roe and Mr. Garst; Burnett report; O'Neal report) Little Sioux amended its petition on July 9, 2002. (petition for permit) Little Sioux filed a land restoration plan

with its petition, and corrected the labeling of the plan on July 9, 2002. (land restoration plan; testimony of Mr. Garst)

On July 24, 2002, the Utilities Board (Board) assigned this case to a presiding officer. A procedural schedule was established by an order issued on July 25, 2002. In that order, the undersigned presiding officer set August 29, 2002, as the date for the hearing on the petition, and proposed to take official notice of a May 20, 2002, report concerning the pipeline prepared by Mr. Gary Burnett, a utility regulatory inspector for the Board, and of a July 12, 2002, report by Mr. Jeff O'Neal, utility regulatory engineer for the Board.

Little Sioux filed prepared direct testimony of Mr. Stephen G. Roe and Mr. Kurt A. Garst on April 15, 2002.

The hearing was held on August 29, 2002, by telephone conference call. Mr. Roe, general manager of Little Sioux, testified on behalf of Little Sioux. (testimony of Mr. Roe) Mr. Burnett and Mr. O'Neal testified on behalf of the Board.

FINDINGS OF FACT

1. Although Little Sioux is not actually a pipeline company, it is functioning as such in this docket, and therefore will be treated as if it were a pipeline company within the meaning of Iowa Code Chapter 479 (2001). (testimony of Mr. Roe and Mr. Garst) Little Sioux has contracted with U.S. Energy to perform the necessary engineering design and construction management for the pipeline, and as agent for purchases of natural gas. (testimony of Mr. Garst) Little Sioux has contracted with the Aconite Corporation to construct the pipeline. (testimony of Mr. Roe) Little Sioux

has contracted with Aquila to operate and maintain the pipeline. (testimony of Mr. Garst)

2. On May 7, 2002, Little Sioux filed a petition for a permit to construct, operate, and maintain approximately 0.85 miles of six-inch diameter steel pipeline for the transportation of natural gas in Cherokee County, Iowa. (petition for permit; testimony of Mr. Roe and Mr. Garst; Burnett report; O'Neal report) Little Sioux amended its petition on July 9, 2002. (petition for permit) Little Sioux filed a land restoration plan with its petition, and corrected the labeling of the plan on July 9, 2002. (land restoration plan; testimony of Mr. Garst) The proposed pipeline will have a maximum allowable operating pressure of 270 psig. (petition for permit; testimony of Mr. Garst; O'Neal report)

3. The proposed pipeline will follow a route described in Exhibit A and shown on Exhibit B attached to the petition for a permit (as amended). (petition Exhibits A and B) It will begin at a point near the intersection of 480th Street and E Avenue where Northern Natural Gas Company (NNG) will construct a new tap and town border station on its interstate natural gas transmission pipeline in Cherokee County, Iowa. (petition Exhibit A; Burnett report) It will proceed east and run parallel along the north side of 480th Street for most of its length, and then turn due south and run under 480th Street at the entrance to the ethanol plant. (Burnett Report; petition Exhibit A; testimony of Mr. Garst) The proposed pipeline will provide natural gas service to a Little Sioux corn processing plant east of Marcus, Iowa, that will convert corn into ethanol. (petition for permit; Burnett report; O'Neal report; testimony of Mr. Roe and Mr. Garst)

4. Little Sioux caused notice of the hearing to be published in Cherokee County in the Chronicle Times, a newspaper of general circulation in the county, on August 12 and August 19, 2002. (affidavit of publication) Little Sioux filed proof of payment of the costs of publication of these notices as required by Iowa Code § 479.13 and 199 IAC § 10.4. (affidavit of publication)

5. This pipeline is necessary to provide natural gas service to the Little Sioux ethanol plant currently under construction in Cherokee County, Iowa. (petition for permit; Burnett report; O'Neal report; testimony of Mr. Roe) The pipeline will provide a safe, low-cost energy source to the Little Sioux ethanol plant. The energy source is a key component of the economic feasibility of the plant, as alternative fuels would be much more costly. The ethanol plant is a significant economic development project for Cherokee County. Significant funds will be spent on construction. Little Sioux will purchase approximately 15 million bushels of corn per year from local farmers for the plant. Once operational, the plant will employ approximately 34 full-time personnel. Mr. Roe testified the project will pay above-average, livable wages. (testimony of Mr. Roe) Therefore, the service promotes the public convenience and necessity as required by Iowa Code § 479.12. (petition for permit; testimony of Mr. Roe; Burnett report; O'Neal report)

6. The pipeline complies with the design, construction, and safety requirements of Iowa Code Chapter 479, 199 IAC § 10.12, and 49 C.F.R. Part 192. (petition for permit; testimony of Mr. Garst; O'Neal report) No further safety-related terms, conditions, or restrictions need to be imposed pursuant to Iowa Code § 479.12. (petition for permit; testimony of Mr. Garst; O'Neal report)

7. The location and route of the proposed pipeline are reasonable and no further terms, conditions, or restrictions regarding them need to be imposed pursuant to Iowa Code § 479.12. (petition for permit; Burnett report; O'Neal report; testimony of Mr. Garst)

8. Little Sioux has satisfied the requirements of Iowa Code § 479.26 and 199 IAC § 10.2(1)(d). (testimony of Mr. Roe; petition exhibit D)

9. No written objections to the petition for a permit were filed and no objectors appeared at the hearing. (testimony of Mr. O'Neal; Docket P-847 file)

10. Little Sioux has obtained the three easements it needed for the proposed pipeline. (petition for permit; testimony of Mr. Roe)

11. Little Sioux filed a land restoration plan that adequately addresses all land restoration issues contained in Iowa Code §479.29 and 199 IAC Chapter 9. (land restoration plan; testimony of Mr. Garst)

CONCLUSIONS OF LAW

1. The Board has the authority to grant, amend, and renew permits for the construction, operation, and maintenance of pipelines for the intrastate transportation of natural gas. Iowa Code §§ 479.1, 479.4, 479.12, 479.18, and 479.29; 199 IAC Chapters 9 and 10.

2. The Board has jurisdiction over Little Sioux and over the petition for a natural gas pipeline permit it has filed. Iowa Code §§ 479.2, 479.5, 479.6, 479.12, 479.18, and 479.29.

3. The petition of Little Sioux for issuance of a permit for the natural gas pipeline in Docket No. P-847 should be granted. Iowa Code §§ 479.11, 479.12, 479.26, and 479.29; 199 IAC Chapters 9 and 10.

IT IS THEREFORE ORDERED:

1. Official notice is taken of the report dated May 20, 2002, filed in this docket by Mr. Gary Burnett, utility regulatory inspector for the Board, and of the report dated July 12, 2002, filed in this docket by Mr. Jeff O'Neal.

2. Pursuant to Iowa Code Chapter 479, the petition for a pipeline permit filed by Little Sioux in this docket is granted. A permit will be issued if this proposed decision and order becomes the final order of the Board.

3. Little Sioux and its contractors must comply with the land restoration plan Little Sioux filed with the petition (as amended) and the provisions of Iowa Code § 479.29 and 199 IAC Chapter 9.

4. Little Sioux must provide timely notice to the Utilities Division before beginning construction of the pipeline, and must also file weekly progress reports during construction of the pipeline with the Utilities Division.

5. After Little Sioux completes construction of the new pipeline, it must file a construction completion report with the Utilities Division. This report must include information regarding any unusual construction problems or occurrences, and a copy of the pressure test procedures used and the results obtained.

6. Within 180 days after completion of the construction of the new pipeline, Little Sioux must file a map that accurately shows the location of the

pipeline route as constructed. The map will be a part of the record in this case, and will represent the final route as authorized by the permit.

7. The Board retains jurisdiction of the subject matter in this docket.

8. Ordinarily, this proposed decision would become the final decision of the Board unless appealed to the Board within 15 days of its issuance. Iowa Code § 17A.15(3); 199 IAC § 7.8(2). However, under appropriate circumstances, it is possible to reduce the time for appeal. Iowa Code §17A.15(3); 199 IAC 1.3, 7.8(2). Little Sioux has requested expedited treatment of this case so it can proceed with construction. No objections to this petition were filed. The Consumer Advocate Division of the Department of Justice does not object to a reduced appeal period. There are no unresolved issues that indicate a need for the 15-day appeal period. **Therefore, this proposed decision will become the final decision of the Board unless appealed to the Board within five (5) days of its issuance.**

UTILITIES BOARD

/s/ Amy L. Christensen
Amy L. Christensen
Administrative Law Judge

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 29th day of August, 2002.